



Washington State Agricultural Burning Practices & Research Task Force

Purpose

The Washington Clean Air Act, Chapter 70.94 RCW, declares that it shall be the public policy to preserve, protect, and enhance the air quality for current and future generations. It further outlines industry or pollution source specific regulations including Section 70.94. 6528 which addresses agricultural burning activities. This law establishes an “Agricultural Burning Practices and Research Task Force” (ABTF) under the direction of the Department of Ecology. The law defines how the membership of the ABTF is determined and what the roles and responsibilities of the group are (Appendix A).

The Agricultural Burning rule, WAC 173-430, further clarifies the ABTF role including key functions (Appendix B).

This document explains operational procedures of the ABTF.

Background

The ABTF, originally convened in March 1992, spent the early ‘90’s assessing the types of agricultural burning that were occurring and the reasons for burning. The “Interim Permit” program was implemented with input from the ABTF from 1992-1995. The Task Force acted as an advisory panel to Ecology during the rule making process for WAC 173-430 Agricultural Burning and set fees for burning at up to \$2.00 per acre. In 1995 the new rules were adopted and the ABTF published the first set of Best Management Practices (BMPs) for Agricultural Burning. In 2005 the Task Force again acted as part of the advisory panel to Ecology during the

rule making process for WAC 173-430 Agricultural Burning. The new rules were adopted in August of 2006. During the 2010 legislative session, the fee cap was changed and the ability to charge a pile fee was enacted. In 2010 The ABTF once again acted as the advisory panel for the limited rule making process for WAC 173-430 Agricultural Burning. The rule was opened on a limited basis to make revisions to the fees charged for burning. The new rule was adopted January 1, 2011.

In the early/mid 1990's the ABTF was involved in advising Ecology regarding research into grass seed burning alternatives. In 1998 the ABTF issued its first Request for Proposals for Research into Alternatives to Agricultural Burning for crops other than grass seed and recommended funding for several multi-year projects. From 1998 through 2010, over \$1,000,000 in research grants were funded through this program, supported by fees that growers must pay when obtaining a permit.

In 1999 the ABTF adopted two new, substantially revised, sets of BMPs for Reducing Emissions from Agricultural Burning for 1.) Cereal Grain and 2.) Non-Cereal Crops. These BMPs have been revised in a few minor ways since 1999.

Membership

The ABTF shall be made up of ten members representing various groups as defined in the Clean Air Act (Appendix A). The representative of the Department of Ecology shall serve as chair. This position has historically been held by the Eastern Regional Office Air Quality Section Manager because the majority of the State's agricultural burning takes place in the Eastern and Central portions of the State.

The remaining nine positions are allotted as follows:

- One representative of eastern Washington local air authorities.
- Three representatives of the agricultural community from different agricultural pursuits.

- One representative of the Department of Agriculture.
- Two representatives from universities or colleges knowledgeable in agricultural issues.
- One representative of the public health or medical community.
- One representative of the conservation districts.

The regulations do not define the process for replacing members nor length of service (term limits). Procedural decisions have outlined that membership appointments will be limited to no more than four (4) consecutive years. When the need arises and until such time as the ABTF deems appropriate, Ecology may negotiate with members for shorter terms for the sole purpose of staggering term expiration dates. The purpose for staggered term expiration dates is to maintain institutional knowledge among active members.

Ecology will solicit interest in serving on the ABTF among the specific group or groups identified in the law when a vacancy occurs. Organizations are expected to participate in the process of recommending interested candidates within their specific focus area. Following the process of seeking recommendations and making a selection, the Director of Ecology (or his/her designee) will appoint members to specific positions.

Members may recommend to Ecology an alternate of their own choosing and are encouraged to do so. Ecology will appoint alternates consistent with the procedures described above. The alternate must be representative of the same group the member is representing on the ABTF (e.g., academic seat alternate must be member of the academic community). Alternates may fully participate in ABTF business, including voting, when the member is not available and with express written permission (proxy) of the member. When the member is available and actively participating, the alternate shall not have any additional status beyond that of other visitors or guests.

Equal opportunity practices will be followed in all appointments to the ABTF. To ensure that the recommendations of the ABTF have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Resignations of members and alternates shall be in writing to Ecology. Replacements will be appointed by Ecology following the process described above. Ecology may choose to streamline the above process when replacing a member or alternate that has served less than one year.

Duties

The Washington Clean Air Act defines very clearly the ABTF duties as follows:

1. “Identify best management practices (BMPs) for reducing air contaminant emissions from agricultural activities and provide such information to the department and local air authorities.”
2. “Determine the level of fees to be assessed by the permitting agency (as outlined by law) based upon the level necessary to cover the costs of administering and enforcing the permit programs, to provide funds for research into alternative methods to reduce emissions from such burning, and to the extent possible be consistent with fees charged for such burning permits in neighboring states.”
3. Identify research needs related to minimizing emissions from agricultural burning and alternatives to such burning.
4. Make recommendations to the Department on priorities for spending funds provided through these fees for research into alternatives methods to reduce emissions from agricultural burning.

WAC 173-430-040 further defines these areas of responsibility in regards to fee structure, the process for adjusting fees, and research. Please refer to the appendixes at the end of the governance.

Decision Making Process

The ABTF will attempt to reach consensus whenever possible as it makes decisions. Decisions will be documented in meeting summaries and recordings. Meeting summaries (including financial summaries) and research reports will be distributed to task force members as well as posted to the web. When making decisions regarding the funding of research grants or the setting of fees: decisions will be made by majority vote of the quorum, defined as more than 50% of the filled task force seats. A written record of these decisions (including worksheet evaluations, proposals, supplementary material, etc.) will be maintained in the file.

Please refer to the attached ground rules document for additional guidance in this area of decision making (Appendix C).

Administrative Provision

Members shall serve without compensation, but may receive reimbursement for travel expenses and per diem in accordance with Washington State travel regulations for attendance at ABTF functions.

Number, Frequency, and Structure of Meetings

The task force will meet three times annually with additional meetings scheduled as necessary. The regularly scheduled meetings shall be held on the second Tuesday of the months of February, June, and November. General topics shall be as follows:

- February – Examine the agricultural burning fee schedule, adjustments in the fee schedule will follow the fee adjustment process as set forth in WAC 173-430-042. Hear research project reports and scope future funding needs, discuss BMPs
- June – Make research decisions (odd years), make BMP decisions, hear research reports
- November – Hear season recap, scope BMP changes, set meeting schedule for ensuing year

The ABTF holds its meetings within Washington at locations convenient for the majority of members and appropriate to the agenda. The ABTF meets frequently, but not exclusively, in Spokane. Where and when possible, the ABTF will hold its meetings in areas where agricultural burning occurs.

All task force meetings are open to the public. The meetings and tentative agendas are announced via Ecology's web page, e-mail, and direct mailings to interested parties. The task force may revise the agenda at the start of any meeting. Task force meetings are considered working meetings, and interaction with attending visitors is generally reserved for the public comment session -- usually near the end of every meeting, or as listed on the published agenda.

Report/ Staff Support

The Eastern Regional Office (Spokane) section staff will provide the necessary support for the ABTF. Files regarding ABTF activities are located in the central files room of Ecology's Spokane office.

Changes to Procedures

Upon agreement by the current ABTF membership, these operational procedures may be amended and/or temporarily set aside. At no time may the ABTF supersede or set aside Washington laws and regulations.

Acceptance

These procedures (including Appendices) were agreed to by the ABTF at its November, 2010 meeting in Spokane.

This document will be reviewed annually and amended as necessary.

Karen K. Wood, Chair ABTF



Washington Clean Air Act RCW 70.94
Sections outlining the establishment and duties of the ABTF

RCW 70.94.6528 -- An agricultural burning practices and research task force shall be established under the direction of the department. The task force shall be composed of one representative from the department who shall serve as chair; one representative of eastern Washington local air authorities; three representatives of the agricultural community from different agricultural pursuits; one representative of the department of agriculture; two representatives from universities or colleges knowledgeable in agricultural issues; one representative of the public health or medical community; and one representative of the conservation districts. The task force shall identify best management practices for reducing air contaminant emissions from agricultural activities and provide such information to the department and local air authorities. The task force shall determine the level of fees to be assessed by the permitting agency pursuant to subsection (2) of this section, based upon the level necessary to cover the costs of administering and enforcing the permit programs, to provide funds for research into alternative methods to reduce emissions from such burning, and to the extent possible be consistent with fees charged for such burning permits in neighboring states. The fee level shall provide, to the extent possible, for lesser fees for permittees who use best management practices to minimize air contaminant emissions. The task force shall identify research needs related to minimizing emissions from agricultural burning and alternatives to such burning. Further, the task force shall make recommendations to the department on priorities for spending funds provided through this chapter for research into alternative methods to reduce emissions from agricultural burning.

RCW 70.94.6528 Permit fees shall be assessed for burning under this section and shall be collected by the department of ecology, the appropriate local air authority, or a local entity delegated permitting authority pursuant to RCW 70.94.6530 at the time the permit is issued. All fees collected shall be deposited in the air pollution control account created in RCW 70.94.015, except for that portion of the fee necessary to cover local costs of administering a permit issued under this section. Fees shall be set by rule by the permitting agency at the level determined by the **task force** created by subsection (4) of this section, but shall not exceed Three dollars and seventy five cents per acre or one dollar per ton for pile burning, to be burned. After fees are established by rule, any increases in such fees shall be limited to annual inflation adjustments as determined by the state office of the economic and revenue forecast council.

WAC 173-430-040 Agricultural Burning Sections regarding the duties of the ABTF

WAC 173-430-040 Agricultural burning requirements.

4) All **agricultural burning** permits require a fee.

WAC 173-430-041 Agricultural burning fees. (1) RCW 70.94.6528 provides the following maximum fees for agricultural burning:

Field burning	\$3.75 per acre
Pile burning	\$1.00 per ton

(2) RCW 70.94.6528(5) authorizes the agricultural burning practices and research task force (task force) to determine the level of the fee.

(a) **2011 fee schedule.** Fees starting in the calendar year 2011 are found in subsection (5) of this section.

(b) **Establishing new fee schedules.** Ecology and the task force will examine the fee schedule using the process in WAC 173-430-042.

(c) **Research fund.** The task force will determine the research portion of the fee based on applied research needs, regional needs, and the research fund budget.

(5) **Permit fee schedule.** Table 1 shows the permit fee schedule, starting in the calendar year 2011. This fee schedule will remain in place until ecology and the task force adjust it using the process in WAC 173-430-042.

Table 1

Agricultural Burning Fee Schedule, Starting Calendar Year 2011

Fee	Minimum Fee	Variable Fee
Field Burning	\$30 for the first 10 acres	\$3.00 for each additional acre
Spot Burning	\$30 for 10 acres or less	None

Pile Burning	\$80 for the first 100 tons	\$0.50 for each additional ton
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(6) **Permit fee distribution.** Table 2 shows the permit fee distribution, starting in the calendar year 2011. This distribution will remain in place until ecology and the task force adjust it using the process in WAC 173-430-042.

Table 2

Agricultural Burning Fee Distribution

Fee	Permitting Authority Administration	Research	Smoke Management
Field Burning Minimum Fee	\$15.00	\$0	\$15.00
Field Burning Variable Fee	\$1.25 per acre	\$0.50 per acre	\$1.25 per acre
Spot Burning Fee	\$15.00	\$0	\$15.00
Pile Burning Minimum Fee	\$16.00	\$16.00	\$48.00
Pile Burning Variable Fee	\$0.10 per ton	\$0.10 per ton	\$0.30 per ton

WAC 173-430-042 Adjusting agricultural burning fees.

(1) RCW 70.94.6528 provides the following maximum fees for agricultural burning:
 Field burning \$3.75 per acre
 Pile burning \$1.00 per ton

(2) RCW 70.94.6528(5) authorizes the agricultural burning practices and research task force (task force) to determine the level of the fee.

(3) Process for adjusting the fee schedule for agricultural burning.

The process for adjusting the fee schedule requires the following two steps:

The task force must determine the fee schedule using the process established in subsection (4) of this section;

If the task force decides to adjust the fee schedule, ecology will finalize the new fee schedule through the process established in subsection (6) of this section.

(4) Task force process to determine agricultural burning fees.

The task force may examine the agricultural burning fee schedule once a year using the process outlined in this section. However, the task force must examine the agricultural burning fee

schedule at least every two years. The task force process for examining the agricultural burning fee schedule must include the following:

- (a) Ecology will submit, to the task force, a summary of the costs of the permit and smoke management programs before the first task force meeting of the year.
- (b) The agenda for the first task force meeting of the year must include examining the current fee schedule.
- (c) Ecology will notify stakeholders and permit holders of time, date, location, and agenda for the task force meeting.
- (d) Based on the information provided by ecology, under (a) of this subsection, the task force will decide if they need to adjust the agricultural burning fee schedule.
- (e) If the task force decides to adjust the agricultural burning fee schedule, they must determine the new fee schedule at a regularly scheduled meeting.

(5) Examining the fee schedule more frequently.

The task force may examine the agricultural burning fee schedule more frequently than every two years, if all of the following occurs:

- (a) The task force determines the fee schedule during one of their regularly scheduled meetings.
- (b) Ecology finalizes the fee schedule using the process in subsection (6) of this section.

(6) Ecology process to finalize fees set by the task force. After the task force determines a new fee schedule, ecology will:

- (a) Post the proposed fee schedule on the agency web site for public review and comment.
 - (b) Publish a notice of a public hearing.
 - (i) The notice will include all of the following:
 - Time;
 - Date;
 - Location;
 - Last day ecology will accept written comments.
 - (ii) At a minimum, ecology will publish the notice in the following locations:
 - (A) *Washington State Register*.
 - (B) Ecology web site.
 - (c) Hold a public hearing at least twenty days after completing the actions in (a) and (b) of this subsection.
 - (d) Accept written comments on the proposed fee schedule. Ecology must receive comments by the time and date specified in the hearing notice, or a later time and date established at the hearing.
 - (e) Consider comments received and provide a written response to comments to the task force and anyone who commented.
 - (f) Ecology will finalize the fee schedule by December 1st of the calendar year before it becomes effective.
 - (g) Ecology will publish the fee schedule by:
 - (i) Notifying stakeholders and permit holders of the new fees.
 - (ii) Posting a response to comments on the ecology web site.
- (7) Effective date of the new fee schedule.** The new fee schedule becomes effective January 1st of the calendar year after it is finalized.

WAC 173-430-050 Best Management Practices.

- (1) The ((Ag)) task force must identify best management practices for agricultural burning that are economically feasible and socially acceptable. Practical ((alternative)) alternative production methods and controls which would reduce or eliminate agricultural burning must be used when reasonably available.
- (2) The ((Ag)) task force may establish an agricultural burning general best management practice and crop-specific best management practices as appropriate. The ((Ag)) task force will work in conjunction with conservation districts and extension agents or other local entities in developing best management practices. The ((Ag)) task force may review and approve crop specific best management practices which have been developed or recommended by an individual or group.
- (3) Approved best management practices information will be available from permitting authorities. The ((Ag)) task force, as it deems necessary, will hold public workshops on best management practices that have changed or are new and will periodically review the best management practices starting three years after approval.
- (4) The ((Ag)) task force will clarify best management practices and make interpretative decisions as needed, considering all authoritative sources on the subject.
 - (a) An individual or group may request a best management practice clarification from the task force.
 - (b) The chair of the ((Ag)) task force may direct the questioned practice to a subgroup of task force members, provided that agricultural, research, and regulatory interests are included and all task force members are notified, or may direct it to the whole ((Ag)) task force.
- (5) The ((Ag)) task force will ((modify)) change best management practices as necessary to incorporate the latest research.

WAC 173-430-060 Research into alternatives to agricultural burning.

- (1) ((The department shall)) Ecology will administer the research portion of the permit fee to carry out the recommendations of the ((Ag)) task force. In carrying out the recommendations, ((the department)) ecology may conduct, cause to be conducted, or approve of a study or studies to explore and test economical and practical alternative practices to agricultural burning. To conduct ((any such)) the study, ((the department)) ecology may contract with public or private entities. Any approved study ((shall)) must provide for the identification of ((such)) the alternatives as soon as possible.
- (2) No less than every two years, the ((Ag)) task force will review research needs and submitted proposals and make its recommendations to ((the department)) ecology.

Agricultural Burning Practices and Task Force (ABTF) Ground Rules

1. All parties at the table are representing others. As such all ABTF members must not put their personal interests before those of the group they are representing.
2. Make a commitment to attend all meetings, be on time, and come prepared.
3. The ABTF responsibilities are very clearly defined, and efforts will be made by the group to stay within those confines. There may be general updates given to the ABTF for information sharing purposes only and are not intended to be acted upon by the group unless they are within the purview of the task force duties of research recommendations, BMP development, and fee related activities.
4. Each member shall have one voice in decision making. The group will attempt to reach consensus whenever possible. In cases where consensus is not possible, decisions will be made by Ecology and the majority of the interest group representatives.
5. All ABTF meetings will be open to the public.
6. Fifteen to twenty minutes will be available near the end of every meeting to receive public comment (the time may be increased for topics of heightened public interest). This is the established time during which the public may provide input at the ABTF meetings. The ABTF may occasionally call upon visitors or guests, but the general format is that of a business meeting, not a dialog or panel discussion between members and the audience. As a courtesy to guests and visitors who may not be available for the entire meeting, the ABTF will make reasonable efforts to begin the public comment session at the time listed in the published tentative agenda.
7. ABTF members will strive to be recognized by the facilitator or chair before speaking and to keep sidebar conversations to a minimum.
8. A commitment is made to listen carefully and respect the opportunity of others to speak. Asking questions for clarification is accepted and encouraged.
9. The same priority will be given to solving the problems of others as you would give to solving your own.